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Thomas S. Wilson

William J. Petersen

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Thomas S. Wilson

A lone horseman was riding slowly from Mineral Point to Prairie du Chien in the fall of 1836. The rider was slight of stature and form, not over twenty-three years old, but with a strong, resolute expression in his otherwise boyish face. As he slouched in his saddle, Thomas Wilson appeared unusually serious. His brother, George Wilson, a lieutenant under Zachary Taylor at Fort Crawford, had advised him to settle at either Mineral Point or Dubuque. He had just visited Mineral Point and was disappointed with its prospects. Could Dubuque, a three-year-old mining town in the Black Hawk Purchase, offer him more? He knew his young wife at Prairie du Chien would be eagerly awaiting his decision.

Suddenly Wilson hit upon a happy solution and reigned in his steed. "I alighted from my horse at one of the Platt mounds and tossed up a dollar, saying to myself, if heads turn up I will go to Dubuque, if tails, to Mineral Point. It turned up heads and I started on a canter for Prairie du Chien." The last steamboat had departed downstream, so Thomas Wilson and his wife were obliged to put their baggage into a canoe

and paddle down the Mississippi to their future home.

Thomas Stokeley Wilson was born at Steubenville, Ohio, on October 13, 1813. He was one of five sons and three daughters born to the union of Peter Miller and Frances Stokeley Pope Wilson. As a lad he played with Edwin M. Stanton, who became Secretary of War under Lincoln. Years later Thomas recalled how he and Edwin "slept with our heads resting together on the lap of the schoolmistress". A dual-tragedy entered the lives of the two boys in 1827 when their fathers died. Stanton went to Kenyon College in Ohio, while Wilson graduated from Jefferson College in Pennsylvania in 1832. Two years later Thomas Wilson began the practice of law at Steubenville, at the same time marrying his home-town sweetheart — Miss Anna Hoge. Believing that the West offered ambitious lawyers a greater future, Thomas set out with his young wife for Prairie du Chien to consult his soldier-brother. The flip of a silver dollar brought to Iowa one of her most distinguished citizens.

Thomas Wilson opened an office immediately following his arrival at Dubuque. His innate ability and honesty quickly won for him a large practice. In 1837 Governor Henry Dodge appointed him prosecuting attorney of Dubuque

County. Not long afterward he became prosecuting attorney for Grant County. But he "disliked the business of prosecuting" and soon resigned.

When news of the creation of the Territory of Iowa reached Dubuque in 1838 the Democrats in the northern counties held mass meetings and nominated Thomas S. Wilson as Delegate to Congress. His constituents urged him to canvass the lower counties against W. W. Chapman of Burlington, and the youthful politician finally agreed to go. "When I arrived at the steamer to take my passage to Burlington," Wilson related, "I was informed by the clerk that I had been appointed one of the Judges of the Supreme Court of Iowa. When I expressed my doubts about it, he took me into the office and showed me a copy of the *Missouri Republican*". To his utter amazement the young frontier lawyer read that the President had named him an Associate Justice of the Supreme Court of the Territory of Iowa.

It did not take the young barrister long to decline the congressional nomination. His decision to serve on the Supreme Court opened a brilliant career on the bench and before the bar. Reappointed by Presidents Tyler and Polk, he served the Territory of Iowa eight years and the State one year. In October, 1847, he resigned to enter private practice. Five years later, in 1852, he was

elected judge of the second judicial district, which comprised Dubuque and seventeen other counties, holding this office until January 1, 1863. He continued his legal practice during the next thirty-one years of his life. Thomas S. Wilson served Iowa for a score of years as a judge, while his total years as a member of the bar numbered fifty-eight.

The honor of conducting the first district court in the Territory of Iowa goes to Judge Thomas S. Wilson. On July 25, 1838, Secretary William B. Conway issued a proclamation dividing the Territory into three judicial districts and assigning Wilson to the first district, comprising Clayton, Dubuque, Jackson, and Cedar counties. The proclamation also fixed the time for holding court in each district. According to the schedule the first court was to be held at Prairie La Porte [Guttenberg] on the second Monday in September.

Since there was no wagon road to Prairie La Porte the judge had to go on horseback. At that early date there were no resident lawyers in Clayton County and so attorneys usually traveled along with the judge. On September 10, 1838, there were not enough jurors present. Judge Wilson accordingly postponed court until the following morning at nine o'clock.

On Tuesday, September 11, 1838, the first district court in the Territory of Iowa was opened by proclamation in the usual manner. John W. Griffith was appointed "Crier" for the United States. Only four cases appeared on the docket: James Henderson, James Brown, Robert Campbell, and Nahum Dudley, were each cited for contempt, having failed to appear as jurors at the April term of court under Judge Charles Dunn of the Territory of Wisconsin. The four men failing to put in appearance, Judge Wilson fined each man ten dollars and costs. When the defendants appeared on the following day they "purged" themselves of the contempt charges. Probably they were not aware of their misdemeanor.

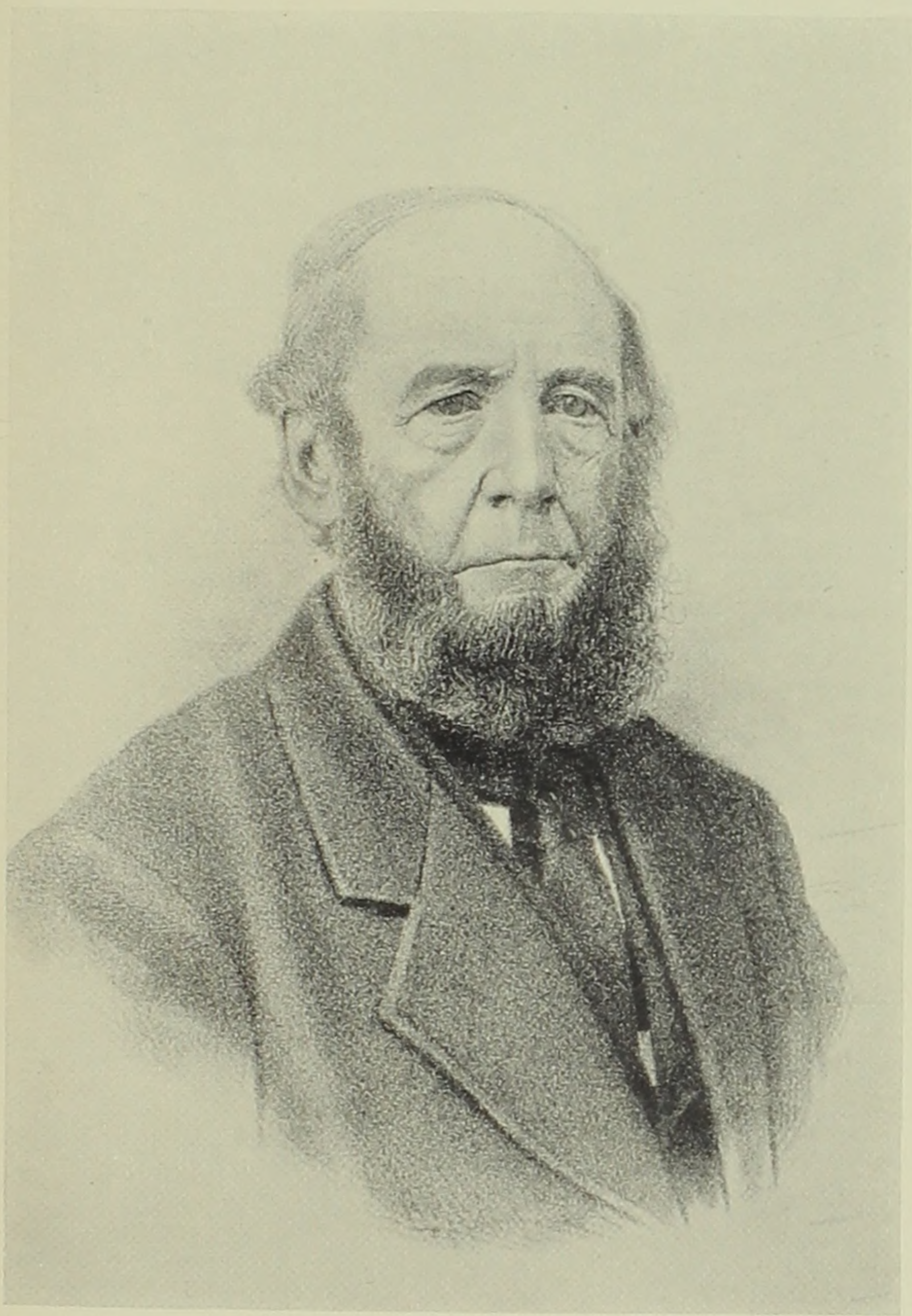
While Judge Wilson was holding court at Prairie La Porte, Chief Justice Charles Mason arrived in Dubuque, having agreed to exchange districts with Wilson. Mason found the Dubuque docket very heavy: no small amount of his time was engaged in admitting Irishmen to citizenship. Wilson, in turn, found his labors arduous in November when he convened court in Lee, Van Buren, Henry, and Des Moines counties.

On November 19th Judge Wilson opened a three-day session of the district court of Henry County at Mount Pleasant. In addition to the regular cases of attachment, assumpsit, debt, larceny,

and trespass, the young judge was confronted with cases of assault and battery, assault with intent to kill, breaking down doors, and burning dwellings. Ten men were hailed before him charged with selling liquor without a license.

At Burlington Wilson convened court on November 26th, in two days hearing three cases of replevin, nine cases of debt, thirty-one cases of assumpsit, and four cases involving trespass, covenant, and appeal. He was also kept busy excusing jurors and admitting new lawyers to the bar. In addition there were cases of assault and battery, gambling, selling liquor without a license, and murder. Amos Nixon was indicted for Sabbath breaking, William M. Blankenship for cutting down apple trees, "Gen'l Atkinson" for keeping a faro bank, and Jeremiah Smith and several companions for inciting a riot. Joseph Williams sat on the bench between November 28th and December 8th, while Charles Mason presided until adjournment on December 24th.

His work in the third district completed, Judge Wilson tarried at Burlington during December while the three justices served as a committee "to report to the legislature such bills as they might deem proper to be adopted as laws." Navigation had closed when Wilson at last started for Dubuque and he was compelled to purchase a horse



THOMAS S. WILSON

and ride for five days along the frozen Mississippi before he reached home.

A distinguishing characteristic of Thomas S. Wilson was his youthful appearance. When Theodore S. Parvin visited Dubuque on the Governor's tour in August, 1838, he sought Judge Wilson to obtain admission to the bar. Arriving at the Judge's residence, Parvin was met by a "pleasing and youthful looking gentleman" whom he promptly took for a son of Judge Wilson. Upon asking for the old judge, the young man smiled and informed him that he was Judge Wilson. Deeply embarrassed, Parvin revealed the purpose of his mission, whereupon Wilson administered the oath and authorized him to practice his profession.

A zealous student of the law, Wilson possessed a driving energy. In a single term of court at Dubuque in April, 1839, he presided over fully two hundred cases. The rough mining town furnished a half dozen indictments for keeping a gambling house, an indictment for assault and false imprisonment, and three indictments for assault with intent to kill. Two men were haled before Judge Wilson for selling liquor to the Indians, two men were charged with murder, and three accused of rape. There were cases involving abduction and adultery, larceny, slander, horse stealing, forgery,

debt, default, operating a lottery, and admission to citizenship. In addition to these there were two score cases of assumpsit and almost as many involving trespass. This, it must be remembered, was the work in a single county, though much the largest, and did not include his duties as a member of the Supreme Court which met in July.

The labors of Judge Wilson did not go unappreciated. On December 21, 1855, the *Dubuque Express and Herald* expressed the "thanks of the legal fraternity and the public" for the Judge's "straightforward, energetic discharge of his duties in the late protracted session of the district court of this county. The cases on the docket embraced 64 chancery cases, 206 civil cases and 28 state cases, all of which were disposed of owing in a great measure to the business tact and address of the judge." In the following February there were 242 cases on the docket, 25 of which were criminal and 55 chancery.

Such industry refutes the charge of "indolence" once flung at Wilson by a political opponent, because of the small number of published opinions credited to him in the Territorial Supreme Court Reports. When E. H. Stiles questioned Wilson regarding this matter, the Judge claimed the authorship of "at least one-third" of them. When he wrote out his opinions Wilson employed a Du-

buque attorney to copy them and forward them to the Supreme Court Reporter. The attorney neglected to indicate the authorship of these opinions, and the printer, Wilson explained, "where no Judge was named as the author, credited them to the Chief Justice". After "close examination" of the facts, Stiles came to the conclusion that the explanation was "perfectly correct".

Although Judge Wilson presided over thousands of law suits and argued many more for his clients, there are at least four with which his name ought to be forever associated. Three of these occurred before Iowa achieved statehood. In January, 1838, he was appointed one of the three commissioners to hear the varied claims in the Half-breed Tract. As a result of their labors the commission rendered a judgment and an execution sale of the entire tract to H. T. Reid for the sum of \$2885.60. The work of this commission was quashed in 1850 by the United States Supreme Court in favor of a decree drawn up by Francis Scott Key, author of the Star Spangled Banner.

While Chief Justice Mason handed down the decision in the case of Ralph, it should be pointed out that it was Thomas S. Wilson who issued the writ of habeas corpus which released Ralph, and, recognizing the importance of the case, ordered that it be tried by the Territorial Supreme Court.

Another important case which Wilson tried was that of the Miners' Bank of Dubuque. The best lawyers were engaged for the trial and at its close in 1845 Wilson decided that the act repealing the charter of the bank was constitutional. His decision was later affirmed by the Iowa Supreme Court.

Undoubtedly the outstanding case in Dubuque history was that of *Chouteau v. Molony* whereby Dubuque land titles were defended by Wilson against the claims of the descendants of one of Julien Dubuque's creditors before the United States Supreme Court in 1853. Wilson himself considered it "the most important law suit with which I ever had any connection either as judge or lawyer". The wealthy Chouteau family employed the distinguished Reverdy Johnson, who "surprised and alarmed" Wilson by his "powerful speech" for "so weak a case". Nevertheless, the Supreme Court decided in favor of Wilson's client. For his two years of labor on the case, Wilson received the "enormous fee" of \$800 in city warrants which he managed to cash for \$700.

Not all his clients were as parsimonious. Once Wilson saved a Chippewa Indian from a murder sentence. The grateful warrior later sent word by a trader that he had "two handsome Indian girls as presents for wives". The Judge said afterward,

"My wife very unreasonably objected and the presents were not sent."

During his long career Thomas S. Wilson won many honors. In 1837 he was president of the first board of trustees of Dubuque. He lacked only two votes of being elected to the office of United States Senator in 1846. During the early fifties he conducted a law school at Dubuque with Judge J. J. Dyer. Wilson was elected to the State legislature in 1866 and again in 1868. He was tendered, but declined, the nomination for United States Senator by Iowa Democrats in 1866.

Thomas S. Wilson had neither the dominant character of Charles Mason nor the vivacious temperament of Joseph Williams. Sober in judgment, he was a close legal student who formed his opinions only after serious thought and reflection. He possessed unusual ability in "plainly, fully, and clearly" putting a case before a jury. It is said that during his long career he never had ten decisions reversed. A contemporary attorney paid him a splendid professional tribute, declaring, "He laid aside his judicial robes as unsullied as when he put them on." When he died at Dubuque on May 16, 1894, his eulogist declared: "No kinder-hearted man ever lived, and no truer friend."

WILLIAM J. PETERSEN